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 United States Patent and Trademark Office  
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 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
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IPW

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/784,597	02/23/2004	Joseph P. Errico	F-309

CONFIRMATION NO. 8309

## FORMALITIES LETTER



\*OC000000013494734\*

36402  
 SPINECORE, INC.  
 447 SPRINGFIELD AVENUE  
 SUITES W2-W3  
 SUMMIT, NJ 07901

Date Mailed: 08/10/2004

## NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

## FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Page(s) 31-36 of the specification (description and claims).

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted item(s) and the petition (and petition fee) requesting the later filing date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any

10/13/2004 WASFAW1 00000026 121095 10784597

01 FC:1051 130.00 DA

10/14/2004 WASFAW1 00000001 121095 10784597

01 FC:1460 130.00 DA

Adjustment date: 10/14/2004 WASFAW1

10/13/2004 WASFAW1 00000026 121095 10784597

01 FC:1051 130.00 CR

omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

Replies should be mailed to: Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

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*A copy of this notice **MUST** be returned with the reply.*

*Request Wolleyes*  
Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: October 8, 2004

Signature:

(Michael J. Doherty)

Docket No.: SPINE 3.0-437  
CIPCIPCIPCIPCIPCON VI  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Errico et al.

Application No.: 10/784,597

Filed: February 23, 2004

For: ARTIFICIAL INTERVERTEBRAL DISC  
TRIALS HAVING A CYLINDRICAL  
ENGAGEMENT SURFACE

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: Group Art Unit: 3661  
:  
: Examiner: Not Yet  
Assigned

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO NOTICE OF OMITTED ITEM(S)  
IN A NONPROVISIONAL APPLICATION**

Dear Sir:

This is in response to the Notice of Omitted Item(s) in a Nonprovisional Application mailed August 10, 2004 in the above-identified application. In response to the Notice, Applicants submit herewith a substitute specification in compliance with 37 C.F.R. § 1.52, 1.121(b)(3) and 1.125.

Applicants also enclose herewith a Petition under 37 C.F.R. § 1.182 requesting a later filing date. Applicants note that the present application is a continuation application of U.S. Patent Application Serial No. 10/282,356 filed October 29, 2002.

Application No.: 10/784,597

Docket No.: SPINE 3.0-437 CIPCIPCIPCIPCIPCO

If there are any additional charges in connection with this requested Petition, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: October 8, 2004

Respectfully submitted,

By Michael J. Doherty  
Michael J. Doherty  
Registration No.: 40,592  
LERNER, DAVID, LITTENBERG,  
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Dated: October 8, 2004

Signature: Michael J. Doherty

(Michael J. Doherty)

Docket No.: SPINE 3.0-437  
CIPCIPCIPCIPCIPCIPCON VI  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Errico et al.

Application No.: 10/784,597

Filed: February 23, 2004

Art Unit: 3738

For ARTIFICIAL INTERVERTEBRAL DISC  
TRIALS HAVING A CYLINDRICAL  
ENGAGEMENT SURFACE

Examiner: Not Yet  
Assigned

**NOTIFICATION OF LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Assignee, SpineCore, Inc., hereby notifies the Patent and Trademark Office that it is not entitled to status as a small entity, and that the claim for small entity status filed by the Applicant is hereby withdrawn.

Dated: October 8, 2004

Respectfully submitted,

By Michael J. Doherty

Michael J. Doherty

Registration No.: 40,592  
LERNER, DAVID, LITTENBERG,  
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